

People causing harm

5.1 Adult(s) at risk may be abused by a wide range of people including relatives and family members, professional staff, paid care workers, volunteers, other service users, neighbours, friends and associates, people who deliberately exploit vulnerable people and strangers.

There is often particular concern when abuse is perpetrated by someone in a position of power or authority who uses his or her position to the detriment of the health, safety, welfare and general wellbeing of a vulnerable person.

Agencies not only have a responsibility to all adults at risk who have been abused but may also have responsibilities in relation to some adults who are causing the harm. The roles, powers and duties of the various agencies in relation to **the person causing the harm** will vary depending on whether the person is:

- A member of staff, proprietor or service manager
- A member of a recognised professional group
- A volunteer or member of a community group such as place of worship or social club
- Another service user
- A spouse, relative or member of the person's social network
- A carer; i.e.: someone who is eligible for an assessment under the Carers (Recognition and Services) Act 1996
- A neighbour, member of the public or stranger; or
- A person who deliberately targets vulnerable people in order to exploit them.

Stranger abuse will warrant a different kind of response from that appropriate to abuse in an ongoing relationship or in a care location. Nevertheless, in some instances it may be appropriate to use the Safeguarding Adults Multi agency procedures to ensure that the adult at risk receives the services and support that they need. Such procedures may also be used when there is the potential for harm to other adults at risk.

5.2 Alleged person causing harm is a member of staff, proprietor or service manager, volunteer, student placement or health or social care professional

Where an allegation concerns the actions of a member of staff, volunteer or student placement, who may also be a colleague, or a health or social care professional it is the clear duty of those concerned to report the matter. Such concerns should be reported to a supervisor or manager.

The manager will need to balance supporting the alleged victim with:

- Supporting the wider staff team;
- Supporting the investigation of the event; and
- Being fair to the alleged perpetrator.

Allegations should always be taken seriously but they are not proof that what is said to have taken place has actually happened.

Appropriate immediate action as part of the safeguarding strategy should include implementation of the organisation's disciplinary procedures, and possible suspension or moving to a non-care position without prejudice.

The alleged person causing harm will of course be considered innocent until proven otherwise, but suspension or moving to a non care position offers protection for them as well as the alleged victim and other service users, and enables a full and fair investigation and safeguarding risk assessment to take place.

Disciplinary action is the responsibility of the employing agency or organisation. The decision as to whether or not to suspend lies with the manager and employing organisation, and cannot be insisted upon by the safeguarding procedure. However the lead officer will require the service to demonstrate that all adults using the service are safeguarded.

Disciplinary procedures can be pursued whilst a criminal investigation is being pursued.

If a police investigation is under way into a criminal offence or a court hearing is awaited, and an unreasonable amount of time may pass before action to resolve the situation is taken, employers have the right to proceed with an internal investigation and take such action as appropriate in the circumstances including dismissal without waiting for the conclusion of the Police investigation.

If a matter is being investigated in parallel with Police investigations, the decision of the Police to proceed or not with charges shall not necessarily have any bearing on any internal investigation or the decision of any employer to impose a disciplinary penalty.

In most cases, the internal investigation should continue while the Police investigation is on-going. **Employers must co-operate and liaise with the Police during the investigation process.**

Actions

Where it is confirmed that an alleged perpetrator is a member of staff, proprietor or service manager, volunteer, student placement the following actions are to be taken:

- The safety of the alleged victim and other adults at risk must take priority.
- Allegations of criminal behaviour must be reported to the police.
- The service must be required to demonstrate what action they have taken to safeguard the alleged victim and other adults at risk, which may be that the alleged person causing harm has been suspended from duty or moved to a non-care position without prejudice.
- Staff subject to disciplinary procedures must be made aware of their rights, and if suspended, should be given an outline of the reasons for their suspension in line with those procedures and in accordance with employment law.

The details of the safeguarding allegation should not however be discussed with them until the multi-agency assessment strategy has been agreed. This is because the police may decide to lead the safeguarding investigation, and any discussion, which takes place prior to police interview, may result in contamination of evidence.

- The staff member should be advised to seek union or legal advice and should have access to a support network. Even where another agency is leading the investigation, it is important to try to ensure that you meet your responsibilities as an employer and keep the member of staff or their representative informed in accordance with agreed confidentiality protocols/limitations and guidance from the agency leading the investigation or safeguarding manager coordinating the safeguarding process.

- Guidance about information sharing may need to be sought from the safeguarding manager coordinating the safeguarding process. Managers should also seek advice from their relevant regulatory body or legal services as necessary.
- The provider must consider the statutory requirement on providers of care and employment agencies and businesses that supply individuals to these providers, to refer care workers and individuals supplied to care positions, to the Independent Safeguarding Authority.
- Regulated services must inform their regulator (CQC) immediately of any Safeguarding allegations against a staff member, manager, volunteer or student placement.
- With regard to abuse, neglect and misconduct, some people causing the harm will be governed by codes of professional conduct and/or employer's contracts that will determine the action that can be taken against them. Where appropriate, employers should report workers to the statutory authority and other bodies responsible for professional regulation such as General Social Care Council (GSCC), the Nursing and Midwifery Council (NMC), General Medical Council (GMC) etc.

Also see Person in Position of Trust guidance.

5.3 Alleged person causing harm is an adult at risk

It is important to understand and recognise that the alleged person causing harm may also be an adult at risk. Users of services can abuse other users.

For guidance on this area see Solihull Local Practice Guidance 4

5.5 Alleged person causing harm is the person's carer, spouse, relative or a member of the person's social network

As with alleged person causing harm who are an adult at risk it is important to understand and recognise that alleged persons causing harm may also be the adult at risk 'carer' or they may be a relative / family member. Research shows the largest group of people who abuse adults at risk are family member or friends

'Carers' and family members can abuse through deliberate intent, ignorance, lack of awareness or good intention. To not recognise and

respond appropriately to such behaviour is, in itself, abusive. It is neglect, in that the adult at risk identifiable needs are not being met.

It is absolutely necessary to address all abusive behaviour. Failure to identify, acknowledge and respond appropriately to abusive behaviour is to condone and reinforce that behaviour. It risks the behaviour being repeated,

These Safeguarding Adults Multi agency procedures are not intended to be punitive, there are other procedures and judicial processes that may follow a punitive course.

Actions

Where it is confirmed that an alleged person causing harm is the person's carer, spouse, relative or a member of their social network the following actions are to be taken:

- Identify at the earliest opportunity if the adult at risk relies on the alleged them to meet basic needs.
- Identify the adult at risks views and wishes - ensure they have capacity and all the information and support they need to make informed decisions.
- Where the alleged person causing the harm is a family member or partner then consideration should be given to also referring the incident to the Domestic Violence officer within the Public Protection Units in the relevant Police Division.
- Where abuse of an adult at risk, who receives support from relatives or informal carers, has occurred or is suspected, consideration must always be given to undertaking an assessment under the *Carers and Disabled Children Act 2000* or to reviewing existing assessments, Care Plans or Contingency Plans.

5.6 Alleged person causing harm is a member of the public or stranger, a person who deliberately targets vulnerable people in order to exploit them.

Stranger abuse will warrant a different kind of response from that appropriate to abuse in an ongoing relationship or in a care location. Nevertheless, in some instances it may be appropriate to use the locally these Safeguarding Adults Multi Agency procedures to ensure that the adult at risk receives the services and support that they need. Such procedures may also be used when there is the potential for harm to other adults at risk.

Doorstep Crime

Doorstep crime is a term that describes:

1. Rogue traders, who call at the homes of adults at risk offering to undertake work (e.g. roofing, resurfacing drives) demanding cash in hand and applying pressure to the householder;
2. Distraction burglars, who call at the homes of adults at risk offering services or seeking to distract the householder while an accomplice enters the home to burgle or rob.

In many cases the two types of doorstep crime are linked in that information about vulnerable victims is shared between criminals, especially relating to possible large amounts of cash in the house. Doorstep crime is rarely spontaneous and often well organised. The majority of victims are elderly women who live alone and the rate of reporting is believed to be very low.

It is important that any cases where doorstep traders defraud or trick an adult at risk are reported immediately both to the Police and to local Trading Standards Officers as this is often a precursor to robbery or burglary. The subsequent offences can often be prevented through awareness and basic security measures.

Also see Doorstep Crime and Scams Guidance.

Hate Crime

The Home Office's definition of a hate crime is:

Any incident, which constitutes a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate.

Hate Crime is any criminal offence committed against a person or property that is motivated by an offender's hatred of someone because of their:

- race, colour, ethnic origin, nationality or national origins
- religion
- gender or gender identity
- sexual orientation
- disability.

Hate crime can take many forms including:

- physical attacks – such as physical assault, damage to property, offensive graffiti, neighbour disputes and arson
- threat of attack – including offensive letters, abusive or obscene telephone calls, groups hanging around to intimidate and unfounded, malicious complaints
- verbal abuse or insults - offensive leaflets and posters, abusive gestures, dumping of rubbish outside homes or through letterboxes, and bullying at school or in the workplace.

It is important to identify if the abuse is also Hate Crime as the Criminal Justice Act 2003 (CJA) has what is known as a 'sentencing provision which imposes a duty on the courts to increase the sentence for any offence aggravated by hostility towards the victim based on their disability or sexual orientation. The victim, a third party, or the police, can raise hostility as an aggravating factor; although police and prosecutors stress that there must be evidence to support the perception. Once that possibility has been raised, the crime can be flagged as a potential hate crime and investigated as such.

Section 146 the Criminal Justice Act 2003 requires the court to state openly when a sentence has been increased because it was a disability hate crime. This has what is known as a 'declaratory effect' – it tells society that such crimes are wrong by naming them for what they are. It also allows courts to punish them accordingly – judges can then impose greater sentences for the perpetrators – or, in the case of murder, the life tariff.